

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ERIC G. PAYNE,)
)
Petitioner,)
)
vs.) Case No. 4:12CV02235 SNLJ
)
JENNIFER SACHSE,)
)
Respondent.)

MEMORANDUM AND ORDER

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Eric G. Payne. I referred this matter to United States Magistrate Judge Nannette A. Baker, for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On September 25, 2015, Judge Baker filed her recommendation that Payne's habeas petition should be dismissed.

No objections to Judge Baker's Report and Recommendation were filed. After careful consideration, I will adopt and sustain the thorough reasoning of Judge Baker and deny Payne's habeas petition for the reasons stated in the Report and Recommendation dated September 25, 2015.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. *See Tiedeman v. Benson*, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. *Cox*

v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing *Flieger v. Delo*, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because Payne has not made such a showing in this case, I will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that Judge Baker's Report and Recommendation, #15, filed September 25, 2015 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner's Petition for Writ of Habeas Corpus, #1, is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability. A separate Judgment in accordance with this Memorandum and Order is entered this same date.

Dated this 13th day of October, 2015.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE